

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America)

v.)

Mark Joseph BRUNO)

Case No.)

4-11-7045 MAG

FILED
APR 20 2011RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 1, 2011 in the county of Contra Costa in the
Northern District of California, the defendant(s) violated:

Code Section

21 U.S.C. § 841(a)(1)

Offense Description

Possession with intent to distribute a Schedule II controlled substance,
namely, a mixture and substance containing a detectable amount of
methamphetamine.

This criminal complaint is based on these facts:

See attached AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

☒ Continued on the attached sheet.

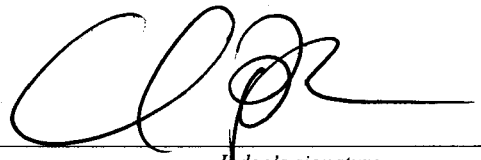
APPROVED AS TO FORM:


AUSA JAMES C. MANN
Complainant's signature

FBI Special Agent Patrick Joseph Ernst

Printed name and title

Sworn to before me and signed in my presence.

Date: April 20, 2011
Judge's signatureCity and state: Oakland, California

Laurel Beeler, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Patrick Joseph Ernst, Special Agent of the Federal Bureau of Investigation, being duly sworn, hereby declare as follows:

I. INTRODUCTION

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the San Francisco Division and have been so employed since August 15, 2010. As a federal agent, I am authorized to investigate violations of the laws of the United States and I am a law enforcement officer with authority to execute warrants issued under the authority of the United States. My FBI Special Agent training consisted of a twenty-one week new agent training class during which I received instruction on various aspects of federal crime. Prior to becoming an FBI Special Agent, I was a Special Agent for the Internal Revenue Service—Criminal Investigation (IRS—CI) for approximately five years. As a Special Agent for IRS—CI, I trained at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia for twenty-four weeks. Training at FLETC consisted of instruction on legal principles and a variety of federal criminal violations, including money laundering, tax evasion, and other tax-related crimes. I have conducted criminal investigations involving investment fraud, money laundering, tax evasion and other financial crimes, as well as violations of the Bank Secrecy Act. I have also participated in the planning and execution of numerous federal search, seizure, and arrest warrants involving the above violations.

2. During the course of this investigation, I have consulted with Special Agent Gregory M. Eckhart. SA Eckhart has been an FBI Special Agent since August 2003. He is currently assigned to the San Francisco Field Division of the FBI, and investigates cases involving gangs, drug trafficking, and violent fugitives. He has received training at the FBI Academy in Quantico, Virginia, including training on violent street gangs, criminal case management, informant development, Title III investigations and the identification, use, packaging and sales of controlled substances. SA Eckhart also attended numerous training schools and seminars related to gangs, violent crime, and narcotics investigations, including many that provided instruction on drug-trafficking methods, money laundering methods, and

1 techniques for investigating those crimes. SA Eckhart has participated in the execution of
2 numerous state and federal search warrants and arrests involving alleged narcotics trafficking,
3 and he has participated in numerous investigations of narcotics traffickers and violent street
4 gangs. These investigations have involved the use of confidential informants, wire and physical
5 surveillance, telephone toll analysis, investigative interviews and the service of search and arrest
6 warrants.

7 3. SA Eckhart has interviewed numerous drug dealers, drug users, and
8 knowledgeable confidential informants about the lifestyles, appearances, and habits of drug
9 dealers and users. He is familiar with the manner in which narcotics traffickers smuggle,
10 package, transport, store and distribute narcotics, as well as how they collect and launder drug
11 proceeds. He has had discussions with other law enforcement personnel about the packaging and
12 preparation of narcotics, the distribution methods of illegal narcotics traffickers, and the security
13 measures that narcotics traffickers often employ. SA Eckhart has also examined documentation
14 of various methods by which methamphetamine, cocaine, marijuana, and other illicit drugs are
15 smuggled, transported and distributed. He has participated in surveillance of narcotics
16 traffickers. During surveillance, SA Eckhart has observed narcotics transactions, counter-
17 surveillance techniques, and the ways in which narcotics traffickers conduct clandestine
18 meetings. He has also participated in investigations that involved the interception of wire
19 communications, and he has been directly involved in the review and deciphering of intercepted
20 coded-conversations between narcotics traffickers that were later corroborated by surveillance or
21 by defendants' statements.

22 4. SA Eckhart is one of the case agents participating in the investigation of Joseph
23 Solice ABBATE, aka Sherman Joseph Fisher, aka "Butch," aka "Mac Dre," aka "Andre Hicks"
24 (ABBATE); Ramon RUBIO, aka "Primo" (RUBIO); and others, for narcotics trafficking and
25 firearms-related offenses.

26 **II. PURPOSE OF THIS AFFIDAVIT**

27 5. This affidavit is being submitted in support of a criminal complaint and arrest
28 warrant charging Mark Joseph BRUNO with possession with intent to distribute

1 methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1).

2 6. Because this affidavit is being submitted for the limited purpose of securing a
3 criminal complaint and arrest warrant, I have not included each and every fact known to me
4 concerning this investigation. I have set forth only those facts that I believe are necessary to
5 establish probable cause to believe that, on or about April 1, 2011, BRUNO knowingly and
6 intentionally possessed with the intent to distribute a Schedule II controlled substance, namely, a
7 mixture and substance containing a detectable amount of methamphetamine, in violation of 21
8 U.S.C. § 841(a)(1). The statements contained in this affidavit are based on information provided
9 to me by law enforcement officers as well as my training, experience, and knowledge of this
10 investigation.

11 7. In this affidavit I describe wire and electronic communications that have been
12 intercepted pursuant to the interception orders in this investigation. In doing so, I have
13 summarized portions of some, but not all, of the intercepted conversations. My summaries of
14 these conversations are based on my personal review of recordings of the intercepted
15 conversations, my training, experience, and knowledge of this investigation, notes of monitoring
16 personnel and/or reviewers which were taken while the recorded conversations were occurring or
17 at the time the conversations were reviewed, and/or other law enforcement personnel as to the
18 meaning of vague or coded language and certain words and phrases. My summaries of the
19 conversations are overviews and are not intended as verbatim transcripts. Even so, I have
20 included in quotation marks my best attempt to provide a draft transcript of some of the speakers'
21 words during the conversations. In some instances, I have only set forth the pertinent parts of
22 sentences and I have used ellipses in some sentences instead of words or phrases that are
23 unnecessary, profane, or repetitive. Subsequent review of the recorded conversations and the
24 preparation of verbatim transcripts may show changes from the summaries provided herein. In
25 addition, I know, based on my training, experience, and knowledge of this investigation (as well
26 as the training, experience, and knowledge of other Agents with whom I have spoken) that
27 criminal street gang members/associates and narcotics traffickers frequently use slang or coded
28 or intentionally vague language when discussing illegal activity, particularly narcotics trafficking

1 or firearms use and/or possession. When a word or phrase used by a speaker constitutes slang or
2 coded or intentionally vague language (or whose meaning would not be obvious to a layperson) I
3 have provided my interpretation of those words and/or phrases in parentheses. My
4 interpretations are based on my knowledge of and participation in this investigation and my
5 discussions with SA Eckhart and with other experienced law enforcement personnel. My
6 interpretations, however, may change as additional information is learned through the course of
7 the investigation. Where noted, the intercepted communications were in Spanish and have been
8 translated into English. Like the summaries themselves, however, these translations are
9 preliminary and tentative. Subsequent review of the recorded conversations and preparation of
10 verbatim translations and transcripts may show changes from the summaries provided and
11 changes in the preliminary translations. This is particularly true when the speakers use vague or
12 coded language or slang. The actual names of callers have been used where agents believe they
13 have tentatively determined the identities of the callers, or where their voices are recognized by
14 the monitoring personnel or reviewers. Finally, once I have identified the telephone number used
15 by a given person in an intercepted conversation, I will not repeat that telephone number in my
16 descriptions of subsequent intercepted conversations unless that person uses a telephone number
17 different than the number he or she previously used. All times are approximate and all locations
18 are in California unless otherwise noted.

19 **III. PROBABLE CAUSE**

20 8. The wiretap portion of the investigation into the drug-trafficking activities of
21 Joseph Solice ABBATE and Ramon RUBIO has been ongoing since September 2010. Over the
22 course of the investigation, Agents have identified RUBIO and Mark Joseph BRUNO by
23 comparing relevant surveillance observations with their respective California Department of
24 Motor Vehicles (DMV) photographs. During the investigation, Agents also determined that an
25 unidentified male, to whom RUBIO referred as "Juanito," delivered methamphetamine to
26 RUBIO and to others on RUBIO's behalf. "Juanito" was arrested by law enforcement officers on
27 April 15, 2011. At the time of his arrest, law enforcement officers identified "Juanito" as Juan
28 VILLALOBOS; specifically, VILLALOBOS' girlfriend or wife identified him as

VILLALOBOS, and VILLALOBOS later confirmed his identity. VILLALOBOS, RUBIO, and BRUNO were identified as the users of the below telephones through the interception of telephone calls made by each of them, and the surveillance conducted of the activities discussed during the intercepted telephone calls (i.e., BRUNO, VILLALOBOS, and/or RUBIO were seen in the locations or participating in the activities referenced in the preceding telephone calls).

9. On April 1, 2011, at 10:54 a.m., a push-to-talk call was intercepted between VILLALOBOS using IMSI 316010156974526 and RUBIO using (510) 815-5687 (subscribed to Miguel Saco, P.O. Box 54988, Irvine, California 92619) (Session 45). The call was in Spanish. According to a rough translation of the call, RUBIO asked VILLALOBOS if he could go see "Pata." (Based upon other intercepted calls during this investigation, I believe that RUBIO refers to his customer, Mark Joseph BRUNO, as "Pata de Elefante" or "Elephant Foot.") RUBIO further asked VILLALOBOS if he had "una uña" or two. VILLALOBOS replied that he had one. I believe, based upon conversations with linguists working on the wiretap, and other law enforcement officers familiar with the Spanish language, and the use of this wording in the context of intercepted communications during this investigation, that "una uña" is a slang term for one pound of methamphetamine. According to the Spanish linguists, "una uña," literally translated, means "one nail." I believe that RUBIO arranged for VILLALOBOS to deliver methamphetamine directly to BRUNO.

10. At 10:58 a.m., a call was intercepted between BRUNO using (925) 812-3005 (subscribed to Mike Ukno, 1412 Cross Street, Martinez, California) and RUBIO (Session 240). During the call, BRUNO stated: "I was ready." RUBIO replied: "Okay, let me call you and I'll let you know how soon."

11. At 10:59 a.m., a push-to-talk call was intercepted between VILLALOBOS and RUBIO (Session 46). The call was in Spanish. According to a rough translation of the call, RUBIO asked VILLALOBOS if he has a chance to go right now. VILLALOBOS replied that he could go at 12:30 or so. RUBIO said that's fine.

12. At 11:01 a.m., a call was intercepted between BRUNO and RUBIO (Session 241). During the call RUBIO said: "I be there like uh twelve, twelve thirty, twelve twenty." BRUNO

1 said: "Sounds great, thank you."

2 13. According to the GPS tracker placed on a silver Dodge Durango bearing
3 California License Plate 6NIU936 (registered to Humberto Lopez, 4200 Reimche Drive, Antioch,
4 California) (the Durango), at 12:22 p.m., the Durango was parked in the vicinity of 113 Cataline
5 Drive, Antioch (the Cataline Location) (which, based upon other intercepted communications
6 and surveillance observations is believed to be VILLALOBOS' stash location). Based upon
7 other surveillance observations throughout this case, VILLALOBOS is known to drive the
8 Durango. From 12:44 p.m. to 1:12 p.m., the GPS tracker indicated that the Durango drove from
9 the vicinity of the Cataline Location to Estudillo Street south of Masonic Street, Martinez.
10 (According to DMV records, BRUNO's address of record is 725 Masonic Street, Martinez (the
11 "BRUNO Location").) At 12:57 p.m., a push-to-talk call was intercepted between
12 VILLALOBOS and RUBIO (Session 48). The call was in Spanish. According to a rough
13 translation of the call, VILLALOBOS told RUBIO to tell the third party that he will be there in
14 about ten minutes. At 1:08 p.m., a call was intercepted between BRUNO and RUBIO (Session
15 244). During the call RUBIO said: "Like five minutes." BRUNO replied: "Alright. Thank
16 you."

17 14. From 12:26 p.m. to 1:03 p.m., on the same date, Agents observed BRUNO walk
18 in and out of the BRUNO Location. (Identification of BRUNO was accomplished through
19 comparison of surveillance observations with BRUNO's DMV photograph.) At 1:12 p.m.,
20 Agents observed VILLALOBOS walk up to the front door of the BRUNO Location and ring the
21 doorbell. The door opened and VILLALOBOS walked inside. At 1:20 p.m., Agents observed
22 VILLALOBOS exit the BRUNO Location. VILLALOBOS walked to the Durango, which was
23 parked on Estudillo Street, and drove away.

24 15. Later intercepted calls between VILLALOBOS and RUBIO indicated that
25 BRUNO was not happy with the quality of the methamphetamine. For example, a push-to-talk
26 call was intercepted between VILLALOBOS and RUBIO (Session 54) at 1:21 p.m. The call was
27 in Spanish. According to a rough translation of the call, VILLALOBOS told RUBIO that he told
28 the third party that it was the last one, and the third party stated that he would rather wait for

1 something different. At 3:55 p.m., a call was intercepted between BRUNO and RUBIO (Session
2 251). During the call, RUBIO said: "But right now, I got, just that one I think." BRUNO said:
3 "That's it?" RUBIO said: "Yeah." The two continued to discuss the quality of the
4 methamphetamine. Later during the call BRUNO said: "It's all good bro . . . yeah have 'em
5 send it my (unintelligible)."

6 16. At 3:58 p.m., a push-to-talk call was intercepted between VILLALOBOS and
7 RUBIO (Session 62). The call was in Spanish. According to a rough translation, RUBIO asked
8 VILLALOBOS what the guy thought of the thing. VILLALOBOS responded that he did not like
9 it. RUBIO told VILLALOBOS to take it to him anyway because the guy has no alternative.
10 VILLALOBOS stated that he would be at the guy's around 5:00 p.m.

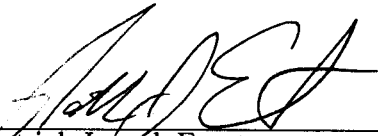
11 17. At 5:19 p.m., a push-to-talk call was intercepted between VILLALOBOS and
12 RUBIO. The call was in Spanish. According to a rough translation, VILLALOBOS stated that
13 he was there. RUBIO thanked him. At 5:22 p.m., Agents observed VILLALOBOS enter the
14 BRUNO Location again.

15 18. I believe that VILLALOBOS showed BRUNO the methamphetamine, which he
16 obtained from the Cataline Location. I believe, however, that BRUNO did not purchase the
17 methamphetamine until VILLALOBOS' second visit, as BRUNO was concerned about the
18 quality of the methamphetamine.

19 19. Based upon the amount of methamphetamine (a pound) BRUNO purchased, I
20 believe that BRUNO intended to resell the methamphetamine to other customers. Based upon
21 my training and experience, and the training and experience of other law enforcement officers
22 working on this investigation, the amount of methamphetamine purchased by BRUNO is far
23 greater than the amount typically possessed by a user of methamphetamine. I have been
24 informed that an individual user of methamphetamine in West Contra Costa County and the
25 surrounding areas typically purchases methamphetamine in increments valued at ten to forty
26 dollars. For ten dollars, a user generally purchases about 0.1 net grams of methamphetamine
27 (also known as a "point"). For twenty dollars, a user generally purchases about 0.2 net grams of
28 methamphetamine (also known as "two points").

1 **IV. CONCLUSION**

2 20. For the reasons stated above, I believe there is probable cause to believe that, on
3 or about April 1, 2011, Mark Joseph BRUNO knowingly and intentionally possessed with the
4 intent to distribute a Schedule II controlled substance, namely, a mixture and substance
5 containing a detectable amount of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). I
6 respectfully request that the Court issue the requested criminal complaint and arrest warrant.

7
8
9 
10 Patrick Joseph Ernst
Special Agent, Federal Bureau of Investigation

11 Sworn to before me this
12 20th day of April 2011.

13 
14 HONORABLE LAUREL BEELER
15 UNITED STATES MAGISTRATE JUDGE
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DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 21 U.S.C. § 841(a)(1), Possession With Intent To Distribute A
 Schedule II Controlled Substance (Methamphetamine)

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY:

See Attachment.

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

DEFENDANT - U.S.

Mark Joseph BRUNO

DISTRICT COURT NUMBER

4-11-70452

 APR 20 2011
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

MAG

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FEDERAL BUREAU OF INVESTIGATION

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:
☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) JAMES C. MANN, AUSA

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1)
- ☐
- If not detained give date any prior
-
- summons was served on above charges
-
- 2)
- ☐
- Is a Fugitive
-
- 3)
- ☐
- Is on Bail or Release from (show District)

IS IN CUSTODY

- 4)
- ☒
- On this charge
-
- 5)
- ☐
- On another conviction }
- ☐
- Federal
- ☐
- State
-
- 6)
- ☐
- Awaiting trial on other charges
-
- If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: NO BAIL

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

ATTACHMENT TO PENALTY SHEET

21 U.S.C. § 841(a)(1), Possession With Intent To Distribute A Schedule II Controlled Substance (Methamphetamine).

Depending upon the weight and/or purity of the methamphetamine and whether an 851 Information alleging prior felony narcotics conviction is filed:

- | | | |
|-----|---------------------|--|
| (1) | Imprisonment: | Possible Maximum Life Imprisonment
Possible Mandatory Minimum 5, 10, or 20 Years Imprisonment |
| (2) | Fine: | Possible Maximum \$8,000,000 |
| (3) | Supervised Release: | Possible Maximum Lifetime
Possible Mandatory Minimum 4, 5, 8, or 10-Years |
| (4) | Special Assessment: | \$100.00 |